

## ATTORNEY GENERAL[61]

### Notice of Intended Action

#### **Proposing rule making related to regulation of physical exercise clubs and providing an opportunity for public comment**

The Attorney General hereby proposes to amend Chapter 26, “Regulation of Physical Exercise Clubs,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 552.20.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2000 Iowa Acts, chapter 1021, section 4.

#### *Purpose and Summary*

The limited purpose of these changes is to remove rules that implemented a statutory provision that has been repealed. Iowa Code section 552.15 mandated that persons operating or intending to operate a physical exercise facility in the state of Iowa register with the Iowa Attorney General’s Consumer Protection Division. This provision was repealed by 2000 Iowa Acts, chapter 1021, section 4. Since the repeal, rules adopted by the Attorney General pursuant to the authority vested by Iowa Code section 552.20 are no longer good law. Rule 61—26.3(552), Registration, is such a rule. The rule’s continuing presence in the Iowa Administrative Code causes confusion because, though the rule is no longer enforced, persons operating physical exercise facilities are wary of disregarding its written stipulations. Thus, the Attorney General finds it both practical and legally necessary to rescind and reserve rule 61—26.3(552).

In addition, the introductory paragraph of subrule 26.4(7) provides that a physical exercise club shall be provided notice of hearing at its place of business as shown on its registration statement. Now that these entities no longer have to register, it is no longer practical to send notice to these locations. Fortunately, these entities still have to file a copy of their escrow agreements with the Attorney General pursuant to paragraph 26.4(2)“a.” As such, their addresses should still be on file with the Attorney General notwithstanding their lack of registration. Thus, the Attorney General finds it practical and legally necessary to strike the language referencing registration from the introductory paragraph of subrule 26.4(7).

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Attorney General for a waiver of the discretionary provisions, if any.

### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Office of the Attorney General no later than 4:30 p.m. on August 7, 2018. Comments should be directed to:

Jessica Whitney  
Office of the Attorney General of Iowa  
Hoover State Office Building  
1305 East Walnut Street  
Des Moines, Iowa 50319  
515.281.8772  
Email: [Jessica.Whitney@ag.iowa.gov](mailto:Jessica.Whitney@ag.iowa.gov)

### *Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Rescind and reserve rule **61—26.3(552)**.

ITEM 2. Amend subrule 26.4(7), introductory paragraph, as follows:

**26.4(7) Notice of hearing.** The physical exercise club shall be provided notice of hearing at its place of business ~~as shown on its registration statement~~. All buyers who have funds in the escrow account shall be provided notice of the hearing at their last-known address with costs assessed to the physical exercise club. Notice of hearing will include: